

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CITY OF TACOMA,

Plaintiff & Counterclaim Defendant, :

v. :

Civil Action No.05-62-GMS

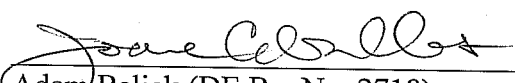
WORLDGATE COMMUNICATIONS,
INC., :

Defendant & Counterclaimant. :

**CITY OF TACOMA'S MOTION TO DISMISS
PURSUANT TO FED.R.CIV.P. 12(b)(6)**

Plaintiff and Counterclaim Defendant, the City of Tacoma, through undersigned counsel, hereby moves, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, for entry of an order, in the form attached, dismissing Count IV of WorldGate Communications, Inc.'s Counterclaims. The reasons for the City of Tacoma's motion are set forth in the opening brief being filed herewith.

BIFFERATO GENTILOTTI BIDEN & BALICK


Adam Balick (DE Bar No. 2718)
Joanne Ceballos (DE Bar No. 2854)
711 King Street
Wilmington, DE 19801
(302) 658-4265
Attorneys for Plaintiff
City of Tacoma

Dated: November 7, 2005

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**ORDER GRANTING CITY OF TACOMA'S
MOTION TO DISMISS PURSUANT TO FED.R.CIV.P. 12(b)(6)**

THIS _____ day of _____, _____, the Court having considered the City of Tacoma's Motion to Dismiss Pursuant to Fed.R.Civ.P. 12(b)(6) and the briefs filed by the parties in connection therewith,

IT IS HEREBY ORDERED that:

1. The City of Tacoma's motion is granted; and
2. Count IV of WorldGate Communications, Inc.'s Counterclaims is dismissed.

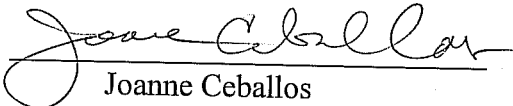
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I, Joanne Ceballos, hereby certify that on the 7th day of November, 2005, a copy of the foregoing City of Tacoma's Motion to Dismiss Pursuant to Fed.R.Civ.P. 12(b)(6) was served by electronic mail on the following counsel for defendant:

David P. Primack, Esquire
Drinker Biddle & Reath LLP
1100 North Market Street, Suite 1000
Wilmington, DE 19801-1254
David.Primack@dbr.com

Matthew Frey
Drinker Biddle & Reath LLP
One Logan Square, 18th & Cherry Streets
Philadelphia, Pennsylvania 19103-6996
Matthew.Frey@dbr.com


Joanne Ceballos